

**In the
Supreme Court of the United States**

— ♦ —
ADVANCE COLORADO, ET AL.,

Petitioners,

v.

JENA GRISWOLD, IN HER OFFICIAL CAPACITY AS SECRETARY OF STATE OF COLORADO.

Respondent.

— ♦ —
On Petition for Writ of Certiorari to the United States Court of Appeals
for the Tenth Circuit

— ♦ —
**APPLICATION FOR AN EXTENSION OF TIME IN WHICH TO FILE A PETITION
FOR A WRIT OF CERTIORARI**

— ♦ —
To the Honorable Neil Gorsuch, Associate Justice and Circuit Justice for the
United States Court of Appeals for the Tenth Circuit:

Pursuant to 28 U.S.C. § 2101(c) and Rules 13, 21, 22, and 30 of this Court,
Petitioners respectfully request a 60-day extension of time, to and including Monday,
September 23, 2024, to file a Petition for a Writ of Certiorari to the Tenth Circuit
Court of Appeals in this case. The Tenth Circuit Court of Appeals issued its opinion
on April 26, 2024. A petition for a writ of certiorari is currently due on or before July
25, 2024. This application is being filed more than ten days before that date.

The opinion of the Tenth Circuit Court of Appeals, reported at 99 F.4th 1234 (2024), is attached as Exhibit 1. The jurisdiction of this Court would be invoked under 28 U.S.C. § 1257.

BACKGROUND

Petitioners Advance Colorado, George Hanks “Hank” Brown, Steven Ward, Cody Davis, Jerry Sonnenberg, and Carrie Geitner regularly engage in the citizens’ ballot initiative process in Colorado, a right that the state grants to citizens in its constitution. In 2023, Petitioners filed the two measures at issue in this case with the Colorado Title Board.

When setting the title for each measure that would appear on voters’ ballots, the Title Board used language required by state law, HB-21-1321 (codified at Colo. Rev. Stat. § 1-40-106), that falsely described what Petitioners’ measures would do if enacted. Petitioner was required to print this false speech on its petitions to collect signatures to qualify for the ballot and present the speech to voters as its own.

Petitioners filed suit and sought a Preliminary Injunction. The District Court denied the motion for an injunction, and held that the speech was government speech, and also refused to address the falsity claim as a separate violation of Petitioners’ First Amendment rights. The Tenth Circuit affirmed this decision.

REASONS JUSTIFYING AN EXTENSION OF TIME

Good cause exists for extending the time in which Petitioners can file their petition for a writ of certiorari.

First, this case raises numerous complex legal issues requiring additional time to fully brief. In particular: (1) the decision below violates the First Amendment by upholding a law that compels private individuals to include false language in ballot measures, thereby compelling political speech; (2) this case squarely implicates a growing problem where the government uses its power to evade judicial scrutiny by claiming that the speech at issue is government speech rather than private speech, and therefore falsity does not matter; (3) this case squarely implicates a growing disagreement about whether compelling citizens to use required speech is lawful when the required speech represents a work product of the citizens, the requirement to publish the speech is integrally tied to the exercise of a right, and the speech is provably false, as it is here. Counsel for Petitioners need more time to fully present these legal issues in their petition for a writ of certiorari.

Second, while this case comes up from the denial of a Motion for Preliminary Injunction, the District Court's ruling that the relevant speech is government speech effectively forecloses Petitioners First Amendment challenge. There is thus limited value in returning to the District Court. Additionally, this issue is a classic "capable of repetition, yet evading review" scenario, because the time to run a ballot initiative will always be less than the time that it takes for a case to run the full course of appeals before reaching this Court. Additionally, the same speech will also be required on future initiatives Petitioners plan to propose.

PRAYER

For these reasons, Petitioners respectfully request that the Court extend the time to file their petition for a writ of certiorari by 60 days, to and including September 23, 2024.

Respectfully submitted,

/s/ William E. Trachman

William E. Trachman

Counsel of Record

James Kerwin

Grady J. Block

MOUNTAIN STATES

LEGAL Foundation

2596 South Lewis Way

Lakewood, Colorado 80227

(720) 640-8713

wtrachman@mslegal.org

Kristine L. Brown

ADVANCE COLORADO INSTITUTE

6501 E. Belleview Ave.

Suite 375

Denver, Colorado 80111

(720) 285-9552

kbb@advancecolorado.org

June 28, 2024 *Attorneys for Petitioner*